Supreme Court, U.S.
FILED
JAN 19 1995
OFFICE OF THE CLERK

(6)

No.94-1034

In the
SUPREME COURT OF THE UNITED STATES
October Term 1994

John Lucas, pro-se
Petitioner

v

Dr. Robert Hahn DrEd President
Dr. Vincent Crockenberg PhD Academic Dean
Stanley Carpenter. Esq.,Board of Ed
Paul Sutherland, Esq., regent
All of Johnson State College, Johnson, Vermont

On Petition for Writ of Certiorari
To The Vermont Supreme Court:Docket #94-015
Motion to Reargue Denied Aug 23, 1994

APPENDIX TO JANUARY 1995 SUPPLEMENTAL BRIEF TO WRIT OF CERTIORARI

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6pp

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(The following is a transcription of an electronic record, a tape recording, of the 9 Apr 92 meeting which took place in the office of Dr. Herb Tilley, at the Department of Education Building, the McClellan Building, of Johnson State College,(JSC), Johnson, Vermont. Present were Dr. Tilley, Dr. Carol Story, then Department Chairwoman, Dr. (ab) Marilyn Page, and teacher-student John Lucas. Subsequent this meeting, a letter dated 9 Apr 92 (mailed, arriving 10 Apr 92) will inform Lucas that he has been summarily removed from the Master's of Education Secondary (high school) Vermont State Licensing Program, administered by the JSC Department of Education, allegedly for violating Federal Laws governing student records and internal rules of the host high School, Spaulding High School, as well

as the rules (legal regulations) of the state licensing program itself.

(There are at least three (3) large gaps in the approximately 41 minute record, indicating that material is missing. This transcription is being done by attendee Lucas, who recalls that the meeting itself lasted just over an hour. Those areas where the large "skips" occur on the tape are clearly marked.

(This transcription is the best true record that this transcriptionistcan provide, and should not vary at all from other records of the same material.True and accurate as is possible, as always.
John Lucas pro-se
ls)

Dr. Tilley:Well, we've gotten to the place where it seems like it's appropriate that we get a chance to meet and...

Lucas: Oh, sure...

Tilley: ...talk things through and to... to ...hear what, what ah.. you perceive John as problems and issues and your ...

Lucas: unhuh...

Tilley:...perceptions of what..

Lucas: I brought a series of papers here which I will sign and I would like you to witness ...as well, you can each keep a copy for yourself...sign each copy and return the yellow original to me...I apologize for not being able to type it, but things being as short as they were ...(to Dr. Story) ...Storey or Story???

Story:...just "y"

Lucas:I just want all of the co-operating teachers from Spaulding to give class 1 recommendations for the work that I did there...

Tilley: That they have, or that you're expecting them to...???

Lucas:No, no, this is. this is, this is minimum outcome that I will expect from them, if they get into talking about what we are going to do here...I want this without prejudice on both sides...they want no prejudice on their side, I want no prejudice on mine as well...

Story:Please...I wish you could say (to me) what this (submitted 8 page report is)...?

Lucas: O.K. My perception of what's going to happen here is they have a whole series of liabilities on their own side that they are probably going to want to cover-up. I think that we are probably looking at separating my

teaching experience with Spaulding High School,and should plan that that is probably the path of action that will most likely occur with the least damage to the most amount of people...ahm..I have been unable to hire a lawyer, in fact I'll be running around all afternoon , this afternoon trying to do that...in the interim, acting as my own best counsel, which may be foolish or not..this is what I would expect to get for them in exchange for a series of...ah.. concessions on my part ...they are not what I would be...consider to be in a terribly great position in some instances ...and ah, while we see that this is a crisis, it's both a crisis of danger and a crisis of opportunity ...so...I mean you and I have looked at this as what's the damage to me, what's the damage to the college, what's the damage to them, they're over there on the other side doing exactly the same

thing...what's the damage to us, etc, etc. etc...

Dr Page: So this is something you're demanding from them????

Lucas:I haven't even talked to them yet. I'm assuming that ...the...will come up some time in the conversation ...and I want you to know what my minimum requirements are ...

Page:... of them (the high school)???

Lucas:...of them! Right!!!

Page:...in order to...???

Lucas: Separate this without prejudice on both sides...

Tilley:uuuuuuuhhhhh (long groan)

Page:And what you want..to do..is to assign the grades...is that right-???

Lucas: That's correct...

Tilley:...Have you read our student teacher handbook...?????

Lucas: Un-huh (affirmative)

Tilley:That you have (indecipherable)...

Lucas: I (indecipherable)....

Tilley: (indecipherable question)

Lucas: That I am supposed to behave in a professional way and do my job as best I know how...

Tilley: That's what it says...at the same time that you abide by the policies and procedures of the school in which you're teaching...

Lucas: Oh sure...

Tilley: Do you feel you've done that??

Lucas:Yes I do!!...ah, I can give you the procedure manual that I got, Herb, from (unintelligible lost section) ...that's the only procedure manual that I got from that school...

Tilley: Did you talk to the Department Head (at the high school???)?

Lucas: No, I never got a chance to do that...

Tilley:Did you talk to the principal???

Lucas: No, I never got a chance to do that either...I was thrown out...I (was) refused that meeting...I (had it)on the

schedule...scheduled...I was told I couldn't go to it, so...I did ask about procedure, and my concern as to the mistakes and errors was that I did not want to be considered accessory to and after the fact...that's..

Telephone rings:

Lucas:...the procedure manual that was given to me...

Telephone rings:

Lucas:...that's the only written document that was given to me at that school...made available to me...

Telephone rings:

Lucas: that anybody...

Tilley (answers phone): yeah...

Lucas: ...gave me any guidance on...and...

Story:...what is this about (this meeting) being electronically recorded????....(interrupted by Tilley on phone, dual indistinguishable conversations)...

Lucas:I...I didn't know if anybody had a tape recorder here or not...if you're going to have one, fine, I just wanted to be able to mark if a copy was going to be available...so I'm going to mark that no...

Story: (too soft to transcribe)

Tiley: O.K....ah...ten (this is to the person on the other end of the phone conversation)...O.K.....yeah...yep...bye! (hangs up the phone)

Story:Ah, John, it's always been clear to you that it was stated clearly...

THIS IS THE FIRST CLEAR DISRUPTION OF THE RECORDED MATERIAL THE RESPONSE IS INCOMPLETE AND DISJOINTED...

Lucas: I understand..

Story: Any decision that's made regarding the students... (static)...

Lucas:...I understand that too,ma'am...

Story:...that it's clear to me...

Lucas:Yes,...I understand that too...and until what I perceive to be a criminal activity occurs, and at that point I have to answer to what I consider to be a different set of ethics and moral...

Story:Until the criminal activity occurs?What...(static)...activity..

Lucas: What Happened???

Story: (too soft to transcribe)

Lucas: What happened in there was that..aaah...the due process of a fair procedure was denied at least half of the students in that class regardless whether there are 19 pieces of homework assignments missing or not.Let me show you the...the addendum on the letter to Dr. Wilgoren, which I gave to him last Monday (6 Apr 92),....about the grades...you will notice that there are only nine students on that graded list..

Story: yes...

Lucas:...of which there are any questions. That leaves five students unaccounted for...

Story:un-huh (affirmation)..

Lucas:...Those five students were not, in fact, graded against the 19 missing homework assignments, their grades were satisfactorily low,so that we didn't have to adjust them at all...and that was perfectly clear to me at the point that that happened...that he was hunting for grades to adjust, only the higher grades in matter of fact, the two "D" grades there that are off by a minor fraction of a point, they (the "D" grades) were not adjusted by these phantom homework assignments.

Lucas: If in fact the homework assignments do not exist, then we have a whole series...ah...of violations of all other sorts of codes, including the 6th Amendment of the United States

Constitution, the 6th Amendment of the Vermont Constitution, the 14th Amendment of the United States Constitution, and various and sundry civil rights laws including but not limited to the 1983 Civil Rights Act.

Tilley: I think you're making some ...some...hugh leaps in terms of you assuming that you have all the facts...

Lucas:Well, I have not seen the homework assignments...they were never given out..I was in class all but nine days of the 45 day period, Herb, I saw this man give out four (assignments),I saw him pass (on assigning homework) one day, I saw him observe me on two days, and I had him give out my homework assignments on the other two days.

Tilley: Were you totally familiar of the grading policies???

Lucas:No.In fact he (Wilgoren) left the grading policy open, although I do have a copy of how he graded last

semester,which he did not say was specifically the way I was supposed to grade, or supposed to hand out work, or whatever...it's a fairly interesting (grading) scheme...

Tilley: In any event...we're still only people working within that school...

Lucas: I understand...

Tilley:... Not having any ultimate rights to grade the final grades unless the teacher specifically states that...

Lucas:But he never specifically stated that he was going to give the final grade...

Tilley:Then it's implied that he would...

Lucas:Well, it wasn't implied to me...it was not clear, in fact it was incredibly unclear...since he had no...no... syllabus,no lesson plans, no guideline on even here's the book, here'a the students, here's...

Tilley: That you saw...???

Lucas:..that..YEAH..that if he didn't present it to me, then how am I supposed to...???...he did not say...we did have a conversation on day five (of the internship) where I said,:you know,I'm probably not your style...and he says: no, you're not my style, and I'm not your style, and I don't expect you to be me, and I don't expect me to be you ...and we never had a disagreement with this man until the grading came up.At that point, all of a sudden, everything that was fine began to unravel quickly...

Story: (too soft to transcribe)...

Telephone rings again. Tilley answers, covering most of Story's question or statement that begins:

Story:... situations...So at this time...

(Tilley on the phone: Hi, how are ya...)

Story:...that was not a...

Lucas: I'm not trying to say..about the crime, ma'am.What I'm trying to do is cut my liabilities.That's exactly what that paper that I (just) gave you (8 page report) says.I'm concerned with being accessory to or after the fact atop this mystery (the phantom 19 assignments)..I talked with ...ah..Mr. (Dick) Lussier (high school supervisor) about approaching this to somebody...and he said: let me find out...and he was incredibly vague, and he didn't know where to go, and there was no manual...no procedure...I talked to Herb (Tilley), and Herb said:If you think you're there, be careful, watch what you do...but don't get yourself in trouble...ah..I spoke to Dr. Wilgoren twice, very nicely trying to say that...we're ...very much amazed by what this is, and what that is, and what the other thing is. and how these (phantom assignments) came about...and at the

second time (conversation) the number of "missing" assignments goes from 15 to 19, he's going to come back and say that I took 19 of his homework assignments that he assigned me under a syllabus and threw them in a shitcan somewhere ...that's his defense...that's NOT TRUE.And I will not...stand by for that...Secondly,if in fact that I'm concerned that I am accessory to the fact, and I can't get anything done, and nobody wants to listen, THEN I WANT OUT.

Lucas (to Story): Do you know what accessory to the fact is???

Story:Yes, I do (softly, not to be confused with Tilley, on the phone still, who says YES much louder into the phone)

Lucas:O.K.

Tilley:(...still on the phone.)...well. we'll see you...

Page:I think there are too many issues here...something about (unintelligible)..the fact...and the second issue is how...

THE SECOND DISRUPTION OF THE ELECTRONIC RECORD OCCURS HERE, OVER THE SECOND ISSUE.THE SKIP IN THIS SPOT MAY BE ANSWERED IN THE RETORT, OR MAY BE AN EDIT OUT OF SOME OTHER MATERIAL

Lucas:...there was a very wide latitude given me, for a number of reasons.Ah, A), I was older, so the tendency to supervise me was not that much,...B) Most of the teachers that I had who were co-operating teachers trusted me because I had a maturity that most (student) teachers don't, C) there was no procedure down there for (student teachers) as you know,... that, we were trying to talk about setting one (procedure) up, D) Dr. Wilgoren never seemed to have a

problem , he was informed of the changes when we moved from what he had done previously to this video/Civil War thing...and he knew how long it was gonna run, and he was quite well aware, and everything was fine , he went in and observed it (the new format), he went and did it while I was out two days...NOT A WORD (of complaint)...not a word until the grading system (of the student teacher) began to run contrary to what he (Wilgoren) had marked these kids (previously) at...kids that were "F" at the mid-semester mark were "A" on my marking sheets...and he didn't disagree with the way that I marked it, he NEVER disagreed with my marking sheets or my percentages, or how I perceived the work to be valued, he only said that there

were missing homework assignments, and that's why these kids (grades) were being dropped.

Page:You had told this to Dick Lussier. What beyond that was your responsibility to....

Lucas:My responsibility to recall what was happening and being accessory to the fact...

Story:What more did you have to do than report this to Lussier??Wasn't that enough...

Lucas:Yes, now I'd don't disagree with you on that part.If I didn't...if I didn't perceive, if I didn't know that that, that that in my mind was a criminal activity, I would have been fine, I would have stopped right there (and been satisfied with the report to Lussier)....

Page:But I think what Carol (Story) is trying to say is that (unintelligible)..after that

....(unintelligible)...based on what you (unintelligible)...what you think is happening...(unintelligible)...

Lucas:Well...in a way yes, and in a way no...

Page:So he's (Lussier) the one I had the initial contact with about how this (internship) was going to work...and some suggestions about observing and lesson plans and that kind of thing...he's the person that I met with...

Lucas:Ma'am, I personally feel that if a citizen in this country finds that, in their experience, a law has been violated, and somebody's civil rights have been violated, they should do whatever they can, A) attempt to redress that, but B) most importantly, not get sucked up it...

Page: But aren't they having an internal investigation right now???

Lucas: Yeh, they are Now, yes ma'am.

Page:O.K. So you..

Lucas: But that, but that doesn't absolve me because Mr. Wilgoren, if he is anything, if he, if he is anywhere like I have portrayed him, is gonna dump this problem on me.I NOW become the villain. I'm the villain no matter what happens here.

Page:What is he going to say??

Lucas: He's going to say...he's going to say that A) um , I threw the papers in the trash, because the kids don't have them, the kids are gonna get up on the,...in front of the investigation, and say no, we never got them (the homework assignments), and they're going to say that this guy Lucas, pitched this stuff.O.K.??You don't deserve those grades.You didn't work for them.You didn't earn those. He disregarded what I told him to do...we've been at odds on this all the way through...now..I'm...

I'm...I'm, I'm in a lose-lose scenario now...

Page:Been at odds with what all the way through???

Lucas: Wilgorem will say that he and I never got along...he's going to say he's been trying to supervise me...his problem is now that here's somebody who's supposed to be...who's, who's turned out to be a problem but he hasn't got...he has no supervisory notes on.If he's my co-operating teacher, shouldn't he have been in there more frequently????...than twice????

Tilley:Depends.

Lucas:Depends???Well, if he's having a problem, and the grades are all out of wack,...

Tilley:Well...

Lucas:And, and the homework isn't getting passed in...

Tilley:There's some other facts...

Lucas:heh???

Tilley:That I don't think you're aware of...

Lucas: Well, I would like to know them if you can disclose them to me...

Tilley:Well, I'm, I'm not in any position to do that...

Lucas:Humph. I mean because, at this point...

Tilley:I think, I think, think they, they, they've heard what your perception was ...you think that you, I think in some cases that you're speculating....

Lucas: As far as what am I speculating, Herb?

Tilley: In terms of, of what people might say about you.And if they do, so be it.I mean, your behavior warrants somethin', doe'n't?

Lucas:Oh, absolutely.

Tilley:Do you think you've operated in a professional manner?

Lucas:Absolutely.

Tilley:You do?

Lucas:Yes I do.

Tilley:I see. Did you send those letters to the parents?

Lucas: Yes, I did.

Tilley:Is that within the policies of the college or the school???

Lucas:I have no idea.

Tilley:Is that operating within the organizational behavior of Spaulding High School?

Lucas:I have no idea, Herb.

Story:Is that behaving within a professional, ethical manner?

Lucas: Yes, ma'am.

Tilley:(muffled laughter/cough)

Story:I don't think so!

Lucas:Well, then I've never had a course on ethics where you walk by somebody's violation and you don't...you don't cover your own rights. I have some rights here, and some liabilities have

been laid out against me. I'm looking to cover my liabilities...Dr. Story.

Tilley:I think you've created some liabilities....

Lucas: I may have done that, I may have done that, Herb, but I'm looking at it from my perspective...O.K.???....I...I have a supervisor who is not available, I have you who has talked to me once, I have Dick Lussier who is sort of fudging around on the whole thing, an I have what's in my mind a serious, serious ethical problem.Where am I standing on this???At the same time, if I go along with this...the same point after we bring the grades in he's (Wilgoren) asked three times for an evaluation sheet...this guy is not unclever...and I go back...and he goes:...and but now that we've got the grading things out of the way if I could have your evaluation sheet (unintelligible)...so he wasn't

upset about the grades, he just arbitrarily changed them...

Page:Evaluation sheet????

Lucas:Of my performance...

Page:He asked...oh...he asked to write one???

Lucas:He asked me to get one from the college so he could evaluate me and send it to the college...and I said gee, I'm not really sure, that I hadn't seen one, but the next time I see ...Marilyn Page I will remind her..and see what...I said I don't even know that one exists,....

Story:Well, first of all that was ... (unintelligible) of me...

Lucas:Marilyn Page...when I talked to Wilgoren...

Story:That's when (unintelligible) ...that I will not accept at all...

Lucas: (Unintelligible)...when Dr. Page was out finishing her dissertation...

Story:That was one week...

Page:(Unintelligible)...

Lucas: THAT WAS THE WEEK WE WERE TALKING ABOUT...

Story:There was somebody available, and if she wasn't, then you have a Department Chair to come to...and...

Lucas:And I spoke to you, Dr. Tilley, that Monday (30 Mar 92)...

Story: Dr. Tilley is not your Department Chair...I am...

Lucas: Well, nobody sent me around, ma'am.I'm, I'm working in a system and you're assuming that I know all the steps of the ladder...and Dr. Tilley didn't say: Wait a minute, lets go see Dr. Story, let's go see this, let's go talk to this person...

Story:Well, fortunately Herb talked to me about what was going on, cause I knew what was going on...

Tilley:I think what was (unintelligible) to the school is that, that there is no, indication that you tried to work it out within the school, that ....

Lucas:Well, I....

Tilley:..that perhaps you didn't talk to Walgren (sic) or whatever his name is...

Lucas: Wilgoren???

Tilley...Wilgoren...you did not talk to the Department Chair..(Third phone interruption, rings several times)

Lucas:He was sick and unavailable....

Tilley: You did not talk to the principal...and if she said that you...

Lucas: I,...I...,I'd been trying desperately to make an appointment with her, Herb...

Tilley:(unintelligible)...well, that's another matter....

Page: I think what Dr. Tilley is saying is that if you could have gotten someone...

Tilley:(On phone)Hi,...

Page:...(Unintelligible, drowned out by Tilley on the telephone)...you should have waited...

Tilley:...Tom....I'm right in the middle of a meeting, Tom...yeah...

Page:(unintelligible)...

Lucas: I felt incredibly isolated, and incredibly out on my own, and as I thought about it over the weekend this business of being accessory to the fact was my judgement. My perception...

Tilley:(On phone) O.K....O.K...

Lucas:...of what happened may not be the truth, or it may not be theirs, but I can only operate under my own perceptions when in fact I don't have procedure manuals, I don't have next steps to go to, I don't have people to talk to with and come back to me...Dick Lussier was a nice guy, but do you know where it went with Dick Lussier???I sort of went.....(sucking crash sound)...like so...

Pag:What was the ....???

Tilley:(On phone) O.K....O.K. (hangs up)

Lucas: And then I spoke with...

Page:Rush???What was the rush, the big rush...(unintelligible)...when people were not available...right that minute????

Lucas:Oh...there wasn't a hugh rush ...there was just,...just a vacuum of anybody to go to next. When I spoke to Mr. Lussier which was the Monday that the grading was finalized, which was..

Page:(Unintelligible)...after...(Unintelligible)...???

Lucas: No...that was last Monday...when it finally became apparent from my viewpoint that these kids were getting chopped because they had done well, not because they had done poorly, ah ...what's the date...the 30th...that's the same date that I talked to you (directed to Tilley now off the phone)...yeah...on March 30th...

Page: March the 30th what??That's when they were final???

Lucas:That's when the grades were finalized, and that's when I spoke with Dick Lussier...

Page:(Unintelligible)The week before that...all these were finalized together???

Lucas:No, this didn't occur until ummm... the 20???, (27 Mar 92) the Friday before that...I had no inkling about what was...he just said come on in and let's co-ordinate the grades. I'd already co-ordinated grades with two other instructors. Co-ordinating grades we're checking to see ...in one case we split it half and half....he had half the time and I had half the time ...hey ...add two (percentage) points here or agree on virtually everything...in the case of, umm ...Jerry ...ah ...ummmm ...DesMaris, with the Vermont History class...we were four percentage points off on seventeen kids...that's how easy that was!!!When I went to Dick Lussier

and we put the grades together (for Lussier's class), there was no question about the grades.

Page:On March 30th, these grades were...

Lucas:They were supposed to be finalized on the 27th...

Page:What happened on that week? That was the week that I was not here...what did you do...?I didn't talk to you at all that week.

Lucas: That's right. I talked to...I talked to Dr. Tilley....and then I talked to Dick Lussier...and I said what do you think we should do....and he said:let me go check it out...and then on Wednesday I said:Well, what do you think is goin' on here, Dick??Because these report cards are coming out tomorrow (2 Apr 92)...on Thursday...and I know what is happening here...

Tilley:The prescriptions I made to ya was 1) do you have documentation?And you said yes..

Lucas:Yes I do!!!

Tilley:And I said go on and work with your co-operating teacher...

Lucas:That's NOT the statement you made to me, Dr. Tilley...

Tilley:(unintelligible)

Lucas:You said, ...to ask me id I had documented evidence....

Tilley:...and go and work with that co-operating teacher...and if not get to the principal...

Lucas:That's NOT the statement that I got from you, sir.I'm sorry...

Tilley: What..what did you think I said?

Lucas:I don't think you said anything at that point...you simply asked me if I had evidence...if I had documents...

Tilley:...And I said: do you have documentation?I said: You go and work things out...

Lucas:I said yes...and I don't believe the conversation went in that direction...

Tilley:It certainly did!

Lucas:no...I don't remember it and I don't recall it ...

Tilley:O.K....

Tilley; (unintelligible)...a problem...

Lucas:That may be , yes,sir..'cause my sense was there was no avenue...I had to go find the principal if I could...I had to...I said :Should I go to Joe Maiola (high school department head) to Mr. Lussier, and he (Lussier) said:No, let me talk to Joe Maiola...everybody wants to politics this around...so that...

Tilley: It's not politics....it's...we wanted to ...we want it to be an experience that results in people doing what they say they're going to do when they start student teaching..

Lucas: (Unintelligible)...

Tilley:...that is abide by the policies of the school where you work at...

Lucas:I understand that, Herb....

Tilley:And you haven't!!!

Lucas: I HAVE NO POLICY GUIDELINES!!!!I don't see where I have broken any policies...

Lucas: You've worked in organizations all your life....

Lucas:I SURE HAVE!!!!

Tilley: What would happen if you were in business and this took place now???

Lucas: If...if I did this???I'd be sitting in a room like this with people asking.....I'm...I'm not surprised that this is happening...it's happened in the military before, too...you make choices...you make choices based on your own ethics and morals and what you perceive to be the greater good...I DIDN'T WANT THIS MESS...I didn't ask for this cup to come my way...I'm not looking out to get this guy...I just wanted to teach, and I was doing what I perceived to be a very decent job of the whole thing, and then all of a sudden....

Tilley:..that's not the issue, I don't think that issue....

Lucas: The all of a sudden this is pulled...and I'm trying to solve the problem...and I sit down and say:Wait a minute...some people have some rights here...

Tilley:...there's that word...

Lucas:...including me!Including my rights.

Tilley:There's that word...like saying "...this is pulled..."

Lucas:This is...?

Tilley: This is pulled!!!That's just what you just finished saying...

Lucas:This is pulled?PULLED OUT!!!YEAH!!!Well...yeah..I had no inkling of this. I thought we were going to co-ordinate grades. I didn't think we were going to drop (students) 2.0 grade points on 19 homework assignments that I had no knowledge of.

Tilley:But he did!

Lucas:YEAH.AND NOW I KNOW WHERE THEY CAME FROM!!!

Tilley:Well, he's got...he's...he's the licensed teacher to make that judgement.

Lucas:..but...

Tilley:If he says they're there, they're there.

Lucas: Don't you think that I should have been informed at the beginning that he was going to pass out homework assignments of which I would have no knowledge ??

Story: Not necessarily....it's his discretion...

Lucas: Do you think I would have worked...would you have worked in a situation where your co-operating teacher was passing out homework unknown to you...???

Tilley:We..We've all experienced ...ah....

Story:...similar situations...

Tilley:...similar situations. Some of it...some of it was known, some of it was not known. The teacher also had some other kind of criteria they were using for grading...in my own student teaching situations...didn't suit me at all...I didn't like it a bit and I told him so...but it didn't change a thing.He just looked up at me and smiled and said:"That's the way it is..."

Lucas:I...I...I don't mind that, Herb...I..I..have no problem with that...but...

Tilley:Isn't that what's happening here?

Lucas:Well, I guess so. But I guess nobody felt the need to tell me that somehow as part of this experience there is an experiment going on with 19 homework assignments that...that may or may not be affecting what's going on in the class....

Story???Page???:(probably Story) (unintelligible)...with the ultimate principal who's in charge...the fact that...

Lucas:(Unintelligible)...I'm not disagreeing with you...about the person who's in charge...I...I...acquiesced to his grades, ma'am..I simply grieved this with him, and grieved this in the best way that I knew how...

Tilley:Ha..hahahaha....

Story:But maybe that...I..I think that's the problem John...because...you just... you just flew with it...

Lucas:I DIDN'T just fly with it..

Page:Well, well why did the letters have to get out on Monday?Why these letters...you know that even teachers at the school usually have to show letters to the principal.

Lucas: Again, I ....my concern is ...that it's my perception as an adult American that civil rights violations

may have occurred ....that letter simply said that a mistake was made...and I'm quite willing to walk in and say that I made the mistake...I made a mistake sending the letter, but I made a mistake on the grading...I didn't say...that letter doesn't say that Dr. Wilgoren made a mistake...

Story: And it does say that the grades are going to be corrected...

Lucas: RIGHT!!!!The other thing you can say is....WHOA...WHOA, WHOA, the other thing you can say, Herb...is that, is that, is that the grades are corrected and the mistake was made by the student teacher...I don't mind how that backs out...

Tilley: They're not going to correct any grades...

Lucas:Huh?

Tilley:There are no grades to correct!!

Lucas: No. Then I made a mistake...

Tilley:Big mistake....

Lucas:O.K.!

Tilley:Maybe a career mistake....

Lucas: Perhaps! Alright I...I have a sense of moral obligation to myself, and to what I perceived to be, you know, right, and fair, and just...and I know, I know the hot seat that I'm on...I know what this means to my career.I've got twenty-five thousand dollars riding on this...I don't want the damage...I didn't ask for it.If you think I went out looking to screw myself out of a year's hard work...

Tilley:You did a pretty good job at it...I mean there wouldn't be any...if any of us here at the college did that...we would, we would have total insubordination...

Lucas: I..I understand...but you're all assuming that I have full knowledge of all the operating procedures of all the places that I've been, and that I've

that...that if somebody...if somebody does this sort of thing in business...that is, if somebody were to do what I saw and perceived to be that...I can't go along with that because I am accessory to the fact...
Page: (Unintelligible)..but my first inclination would be ...I would check it out with care...I wouldn't write a letta...that would hold outside this institution...without checking it out first...no matter what I felt.
Lucas:I'm...I'm, I'm not a college institution person.
Story and Page together
:(Unintelligible)..
Then Story:..ah, happened...you speak up first...(Unintelligible)...
Tilley:And after talking with the principal,they said that they could, have worked out anything internal if they could have had a chance to know about it...anything...

Lucas:I..I..I'd been giving it to them for a week...

Tilley: In fact.they've had student teachers for many, many times and they said :sometimes they get very excited about their teaching and they don't always work...

Lucas: I know ....

Tilley:...with the school as they would like have...they can work with all that...when you go public, that's another thing....(unintelligible)...that says:John, you're operating as an individual, without anybody's...

Lucas:My..my...my concern for that was...was...was to get me some protection for my liabilities...the man said I didn't turn....that I didn't grade on 19 assignments...and that means, that what he will ultimately say is that he gave them to me and I threw them away...

Tilley: Naaawwww...he won't say that...

Lucas:Well..well..wha...what's he gonna do with the 19...how were the 19 assignments passed out, and how were they passed out so that I was completely unaware of them???

Tilley:That's his business!Totally his business!!!It's a private matter!!For every individual student.Then it's his responsibility on how he grades those students.As a student teacher, it's not a (unintelligible) matter.Except to turn your grades over to the co-operating teacher and say that these are my grades.And how that's gonna come out on the grade sheet, that's not, that's not your responsibility at all .(Unintel-ligible)...you've just provided part of the picture...of what that teacher knows about these students...

Lucas:So, in other words, whatever he perceives about them past the semester line from previous semesters is included...????

Tilley:I don't think that...

Lucas:...could in fact affect whatever grade they have...???

Tilley:What ever his grading policies are...that...that's an individual matter...but he has to stand for them...not you...

Lucas:Well, the grades are out...I guess he does stand for them...

Tilley:Yeah...

Lucas:I mean that's what you've said...

Tilley: Now the school's part is just to working some things out with the parents to help them understand...

Lucas:O.K.

Tilley:...that's the way...that's the way the policy handbook here talks about it...that's the way that every organi-zation that I know I've ever worked in works.And that's certainly how you were taught in the methods class...as a guest of the org...of the school that you teach at.

Lucas:...over here...at the end...

Story: (unrecorded)

Lucas:...I completely understand that you're a guest of the school, ma'am.I'm...I'm...I'm...I'm...maybe it's selfish, or impulsive, or whatever you are, but at the point that occurred, and there seemed to be no avenue of reproach, I'm concerned with my own, personal legal liability.And since I could not get access to the people who I needed to get access to,and I did make attempts, you know I made attempts to do that, at that point, I make a judgement as to whether I'm accessory to or after the fact, accessory after the fact,cause that's, that's my personal judgement ...I'll live with it Herb...it may be a wrong call, it may be a really stupid, screwy thing to do...but if I was in the same position again, without this kind of meeting...without...the same exact thing...that's the way I would handle

it...and there have also been institutions where people make....say, just follow the orders here...things are fine, we'll be O.K.I've been asked to commit a whole series of acts,by institutions, which are grossly unacceptable to me.Up to and including gross amounts of interstate bank fraud,up to and including murder.So you must understand, that coming from my 42b ackground, institutions are not always correct.

Page:John, I don't think we're saying that there are procedures at other institutions...

Lucas: I did...I tried to ...I did use all of the procedures that were available to me...

Page:But I don't think you waited long enough, John. I don't know Dick well enough to say...that you went to him...

Lucas:..that there were several...

Page:...at the different times, that you...

Lucas: Yes, I did, ma'am...

Page:...these are very busy people, and to expect that just like that...

Lucas:I didn't expect it to happen in the afternoon...but I expected to be able to get in and talk...because...let me go talk to Joe...I expected to be able to see Joe (Maiola)...I expected to be able to get in to see the principal, not particularly on this matter, but just to feel her out on a few things so I could get some sense of being...you know....in this...and as a part of this...

Tilley:Well, what up front was the urgency???Why couldn't it...couldn't it have waited two weeks???Three weeks????Grades can always be adjusted if they're incorrect.

Lucas: YEAH! But apparently you said that the grades were his and the call is his...

Tilley: It is...

Lucas:So they're not adjustable and nothing is going to happen, and that's where it is!

Tilley:I mean in terms of your desiring to move as fast as you did: BING! BING! BING!!

Lucas:I'm concerned with my professional liability as a student-teacher because now what we have...

Tilley: There's none!!!

Lucas:huh???

Tilley: There's NONE!!!

Lucas:Well,...there is none either.Because now the man can say that:I looked at his marks and he failed to mark down 19 assignments which I passed out to the students...

Tilley: That's his call!!

Lucas:So now...now I'm the guy who goes in and teaches class and takes homework assignments and throws them in the crapper and inflates grades on students???

Tilley: NOOOOOOhhh!!

Lucas: Well, it's in that letter, Herb, and it's...it's one of the things that I'm really concerned about...

Tilley: What letter?

Lucas: The one that I just passed around to you...

Page: The letter that you wrote...???

Lucas: The letter that I wrote? No..no,no...the one I passed out this morning...if you'll look...look in, in, in that...

Tilley:What letter???

Lucas:That...that...not a letter, just the 8 page handout...

Tilley:But didn't you write this?

Lucas:Yes!!To you this morning...

Tilley:Aren't these your perceptions???

Lucas:YES!!!They're my perceptions. That's how I operated.How else am I supposed to operate???The man...I, I graded these...these kids at a certain grade level...now he says I'm sorry, we're going to back the grades down because of 19 missed homework assignments, and then I say: O.K. fine, where are they (the 19 assignments)???, he says, oh, I gave them to you!What do you mean you gave them to me???Oh, sure, didn't you, didn't you mark them down??? Didn't you give them out???Where are these homework assignments???He goes to the kids and the kids say: Oh, no, we never got them. So now here's Mr. Lucas looking real good at Johnson State College with all these nice, high marks for the kids, trying to fluff up his grades over there at Spaulding High School,

and now he's caught by his co-operating teacher...

Page:Is that what you (unintelligible) you'd look real good at Johnson if your students (unintelligible)?

Lucas:No. What, what I have here is a grading scheme which is grossly out of whack with what the students' capacities are, what the students are worth.And I've done that by taking assignments which he's given off his syllabus to me, and shitcanning them! In other words, his assignments don't exist, we're just going to work with my assignments, and that's the only way it runs.

Tilley:These are legal things to you but...what...what...what do you think they would do to you???

Lucas:I supposed they'd say: this guy is a fraud!!

Tilley:That's kind of interesting...ha..ha...hahahahahahah!!

Lucas: HERB!!!My co-operating teacher gives me 19 pieces of homework and I throw it in the can and...and...and there's no liability...

Tilley:He's not saying...

Story: He's not saying that at all...

Lucas: Well, I don't see the 19 pieces of homework Carol, that's the thing...

Tilley:I don't...I don't....I don't know as you'll ever see 'em...

Story:You may never see 'em...

Tilley:Nobody else will!And he may have grades for them.

Lucas: I wish when we had the process course that we would talk about absolute authority of the co-operating teacher to INVENT reasons, INVENT reasons...for making grades the way they are....

Tilley:..(unintelligible)...I think that...

Story:...that's your supposition....

Tilley: ...you've got to be careful...about using...

Story:..(unintelligible)...

Lucas: MA'AM, if I don't see the homework and I SPEND ALL BUT FOUR DAYS in that class handing out the homework...

Story:John, did the marking period start on exactly the same day that you started?

Lucas: Yes, it did...

Story:Is that what you're saying???

Lucas: Yes, it did...

Story:...that still doesn't, doesn't mean that there aren't some things that he knows about those kids, or other (unintelligible) such and such as...

THIS IS THE THIRD SUBSTANTIVE DISCONNECT IN THE INTEGRITY OF THE TAPE TRANSCRIBED.ON BALANCE, THERE SEEM TO BE CONSTANT,MINOR DISRUPTIONS IN THE DIALOGUE, WITH WORDS CUT IN HALF, CONVERSATIONS MINIMALLY DISRUPTED, ETC.WHY THESE EXIST IS SPECULATIVE.THAT APPROXIMATELY THIRTY MINUTES OF

RECORDING, WITH OR WITHOUT CONVERSATION, IS MISSING, IS NOT SPECULATIVE.jl

Lucas:I...I'm...I'm saying that he had, but all I'm saying is :his rationale for all his changes with the 19 homework assignments leaves me with a double-edged liability going on here.

Tilley:NAAAAWWWW...

Story:No...

Page:....(Unintelligible)...you're not responsible for that (unintelligible)

....

Tilley: You're not responsible. You're not liable for those kids.

Page: you...didn't....

Lucas:No, but I'm liable to my liability toward my licensing and certificate process, and here I have a guy who's saying that 19 pieces of homework went in and this (student) teacher knew nothing about them .Do you see what I'm

saying? I'm supposed to be student teaching,...

Story: ...If that's the only negative comment, then I wouldn't ....I probably even ignore it....(gap)...if that's the only concern, that, that this student teacher did not mark the same way I did...

Lucas: But it's a question of how cognizant am I when we have forty-five days, there's nineteen homework assignments missing, and I know nothing about them, Carol?????How competent a person...??????

Story:You just, you just....told me of two other teachers that you worked with that would ...support the grades you had given....

Tilley:...besides....

Story:...If you were concerned...about what this one teacher's going to say, you've got two others that you've co-ordinated grades with who ....That

they're evidence of quite a lot of bit of your competence, not of your incompetence...

Lucas: Yeah, I suppose it is...but all you have to do is have is of those things up here, one little check mark on your ....whatever...

Story: (unintelligible)...

Lucas: Carol, Carol...in Vermont, Vermont...that at least my experience has been...that...that...

Tilley: I don't see why a person would make such a monumental case out of something where you had not...where you did not have all the facts...and to jump to that conclusion...ah...into a situation, acting as if you were in charge....and acting on your own...without any,any consultation at the school, which is the place that has the policies, and knowing that you would normally get approval before you'd send

out public information, or call the press...

Lucas:I didn't call the press!!!!

Tilley:O.K. ...(unintelligible)...

Lucas: That was completely unconnected.

Tilley: O.K.

Lucas:I...stand...

Tilley:...

Lucas:...I stand....you can check and see when the photographer went down, Herb...the photographer was there before the letters were sent...

Tilley: That's a good picture...

Lucas:...It was a good picture...they're are good kids...I...I didn't, didn't want this to happen...but it has happened , and I have to bear, bear the responsibilities for my actions...I believe in that...

Tilley:Well,...we'll discuss it.

Lucas: O.K. Could I have those (8 page reports) all signed back around, and you can keep one of those copies for yourself...

Story: I won't sign (unintelligible)...

Tilley:....I won't sign this...

Lucas: O.K.

Page: I'm really not sure this is...????

Tilley:I'm really not sure what this (report) is...????

Lucas:O.K....

Tilley....maybe if we could keep one...???

Lucas: You're certainly welcome to keep them all...I've...I'm...I have no problem with that...ah...I mean it's my explanation actually...of my perceptions of what happened and my issues were and all of that ...that's why I made it up...

Tilley:..we certainly want to be fair and understanding...

Lucas: Oh, yeah.....I'm not trying to hide anything...

Tilley:....as the result, I sometimes (Unintelligible)...

Page:What was...(unintelligible)...?

Lucas:....I have no idea.

Page:...what they would do with that...????

Lucas:Ma'am, I didn't know an investigation would even begin.

Page: I thought that's what they told you???There's an internal investigation...

Lucas:Yes they told me that ...Tuesday ...morning...when I was...when I got suspended.That's the only time I knew that an investigation had begun...

Tilley: Uh..when I...when I talked to the principal they said that...I, I asked the question: Why was there a discrepancy in the grades?

Lucas: Un huh...

Tilley: ...and they said that the teacher had additional information to put into those grades...they were going to....going to look into it...

Lucas: well....seems o.k. then...

Tilley: Yeah...

Lucas: That's the best thing here...I don't think that we have a ...terribly big problem, actually...

Lucas:Well...thank you for your time...

Tilley: Thank you, John...

Door closes, Undifferentiated noise for several seconds, then:

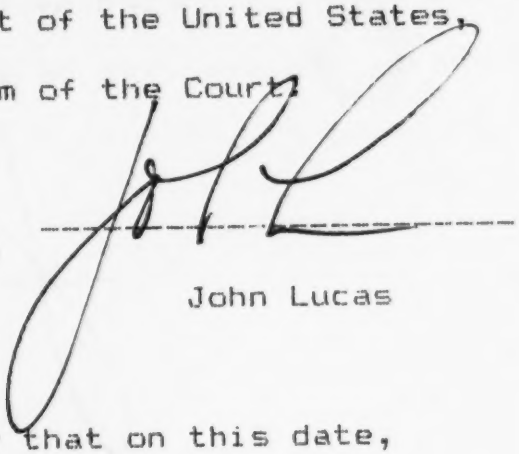
Tilley:...whistling.....

Blank for several seconds on the tape...then:

Lucas: ...this is minimal, minimal ...no....(unintelligible)...they're gonna...(unintelligible)...

THE TAPE ENDS AT THIS POINT. THE REMAINDER OF THE MARKED SIDE IS BLANK, AS IS THE SECOND SIDE OF THE TAPE. IN ALL, THERE ARE ALMOST 41 MINUTES OF RECORDED CONVERSATIONS AND PAUSES. THIS IS APPROXIMATELY 33 MINUTES LESS THAN THE ACTUAL TIME OF THE MEETING. WHILE ALLOWANCES CAN BE MADE FOR LATE BEGINNINGS AND EARLY ENDINGS, AS WELL AS FOR TAPE SPEED DIFFERENTIAL (TAPE DOES NOT RUN AT TRUE, CLOCK SPEED, BUT SLIGHTLY FASTER), THERE IS NO DOUBT IN MY MIND THAT PORTIONS HAVE BEEN CUT FROM THIS RECORD. WHAT IS MISSING MAY NEVER BE RECOVERED, AS THIS RECORD WAS "LOST" FOR MORE THAN TWO YEARS. HOWEVER, WHAT REMAINS SEEMS TRUE AND ACCURATE, AND IS OF SUCH SIGNIFICANCE TO THE ISSUES AS TO EXPLAIN WHY THIS RECORD WAS "LOST" IN THE FIRST PLACE.

Signed this day, the 18th of January,, 1995, in Morrisville, Vermont, of his free hand and deed,by the undersigned pro-se teacher-student, petitioner to the Supreme Court of the United States, October 1994 term of the Court.



John Lucas

I Hereby certify that on this date, the 19th of January, 1995,the undersigned pro-se teacher-student, petitioner to the Supreme Court of the United States, October 1994 term of the Court, did deliver pursuant the statures,four (4) copies of this Supplementary Brief and Appendix to his Writ of Certiorari,plus an additional copy, five (5) in all, to Michael Harris,Esq., of the firm Sutherland and Collins, by 1st Class